

Final Business and Regulatory Impact Assessment

<p>Title of Proposal</p> <p>Prescribing a Rural Housing Body under section 43(5) of the Title Conditions (Scotland) Act 2003</p>
<p>Purpose and intended effect</p> <ul style="list-style-type: none">• Background <p>Section 43 of the Title Conditions (Scotland) Act 2003 (the 2003 Act) makes provision for the Scottish Ministers to prescribe a body to become a Rural Housing Body (RHB) if it meets the criteria under section 43 of the Act.</p> <ul style="list-style-type: none">• Objective <p>To provide affordable housing for local residents. Section 43 of the 2003 Act permits the creation of rights of pre-emption in favour of prescribed RHBs. Such rights of pre-emption are known as “rural housing burdens”. A rural housing burden gives the body in whose favour it has been created the first opportunity to buy the property back when it is sold. The objective is to maintain a stock of affordable homes.</p> <ul style="list-style-type: none">• Rationale for Government intervention <p>The application by Dormont Passive Homes (Scotland) Ltd (DPHSL) identifies the need to provide housing that is affordable for permanent residence, and to keep the housing in affordable tenure.</p> <p>A body can only become an RHB if it is prescribed by SSI. Prescribing an RHB may help to achieve one of the Scottish Government’s national outcomes which is that “we value and enjoy our built and natural environment and protect it and enhance it for future generations.” It could also help to meet the national indicators to “improve access to suitable housing options for those in housing need” and “increase the number of new homes”.</p> <p>The proposal would help to maximise the delivery of affordable housing within the Lockerbie area of Dumfries and Galloway.</p>
<p>Consultation</p> <ul style="list-style-type: none">• Within Government <p>We have considered the application with the Community Right to Buy Team within the National Resources Division and the Industry Policy, Supply Strategy, Right to Buy Team within the More Homes Division. All parties were content for the application by DPHSL to proceed.</p> <ul style="list-style-type: none">• Public Consultation <p>We did not carry out a written public consultation across Scotland given the limited impact of the SSI.</p> <ul style="list-style-type: none">• Business

It was our intention to interview the local authority as well as some small/local businesses. However, DPHSL advised that they were unable to provide names of businesses in the area they felt would be interested or willing to take part in the BRIA exercise. This was due to them finding it difficult to think of businesses which would be affected by them being prescribed as a RHB. Therefore we only approached the relevant local authority on this occasion.

Options

There are 2 options regarding DPHSL application to become designated as a RHB.

Option 1 is to do nothing.

- **Sectors and groups affected**

There would be no direct impact on the local community and businesses in the Lockerbie area of Dumfries and Galloway if we decided not to approve the application for DPHSL to be designated as a RHB.

- **Benefits**

By doing nothing, there would be no positive benefits within the Lockerbie area of Dumfries and Galloway.

- **Costs**

There would be no costs involved as no SSI would be required. However, doing nothing could have a negative impact on the local economy. Economic activity could be generated though the work carried out by DPHSL. In addition, any housing built could house people from the local community or people who wish to move permanently to the Lockerbie area of Dumfries and Galloway

Option 2 is to designate DPHSL as an RHB.

- **Sectors and groups affected**

This proposed SSI would designate DPHSL as an RHB. The related impact would therefore be felt in the Lockerbie area and in the communities and businesses within the Dumfries and Galloway area.

- **Benefits**

The aim of DPHSL is to provide affordable housing to the local community where such housing is in demand as there is not at present in sufficient supply.

- **Costs**

No costs apart from the minimal cost of the SSI.

Scottish Firms Impact Test

It was agreed that we would conduct a written interview with the local authority so as not to incur any travelling costs. A list of questions was prepared and sent to Dumfries and Galloway's Chief Executive.

Dumfries and Galloway Council

- Dumfries and Galloway Council advised that as yet DPHSL had not made a planning application to the council to construct mixed tenure homes, of which 7 would be for sale at a discounted rate.
- DPHSL has also not made representations to the council to have this development included in their Strategic Housing Investment Plan (SHIP) or Main Issues Report of the forthcoming Local Development Plan.
- As a result of this, the council advised that due to the lack of detailed information available, it was unable to determine whether or not the proposed development would be compatible with its strategic objectives and policies.
- The council also advised that there is currently a RHB in their local authority area - The Dumfries and Galloway Small Communities Housing Trust. As such, the council stated that it was unclear what benefit granting DPHSL rural housing body status would bring.

In the light of the comments by the local authority above we contacted DPHSL. DPHSL outlined that because some small housing sites in rural parts of the region are not contained within settlement boundaries, they will not have been brought forward for consideration within the Main Issues Report. Nor will affordable homes built without subsidy (perhaps as part of an agreement under Section 75 of the Town and County Planning (Scotland) Act 1997) appear within the Strategic Housing Investment Plan (SHIP). It is also possible that some sites listed in the SHIP do not yet have planning permission. On the benefits of being prescribed as a RHB, DPHSL noted that they have been established to build affordable homes and ensure that a proportion of them remain affordable in perpetuity.

- **Competition Assessment**

The Scottish Government has considered the impact of the proposal on competition and does not consider that there would be an adverse impact effect on the house-building or other industries as the work carried out by RHBs is relatively small-scale.

- **Competition assessment filter questions**

Will the proposal directly limit the number or range of suppliers?

No. The policy will not restrict the number or range of suppliers either directly or indirectly and will not impact on their ability to compete. It will be for DPHSL and individual homeowners to decide which suppliers to use.

Will the proposal indirectly limit the number or range of suppliers?

No. As above.

Will the proposal limit the ability of suppliers to compete?

No. Again it will depend on who the DPHSL and/or who the new homeowner wants to appoint to construct. The current proposals do not state that there will be any restrictions on suppliers to compete.

Will the proposal reduce suppliers' incentive to compete vigorously?

No. The policy itself does not place any restrictions on who may tender for the work or range of suppliers. The location/design of the houses may rule out some firms/businesses but this is not a consequence of the policy.

- **Test run of business forms**

There are no new forms associated with this proposal.

Legal Aid Impact Test

The proposal has no impact on the legal aid budget.

Enforcement, sanctions and monitoring

The policy does not need enforcement or sanctions.

Monitoring will be at a low level, given the restricted impact of this SSI. However, the Scottish Government is currently undertaking an exercise to review all current RHBs to establish:-

1. which RHBs are still in existence;
2. whether they have retained the same name since first being prescribed; and
3. whether they have created any rural housing burdens.

This will feed into a wider project of consolidating the list of RHBs in a new SSI.

The Carnegie UK Trust has carried out research on rural housing burdens: <http://www.carnegieuktrust.org.uk/publications/the-effectiveness-of-rural-housing-burdens-a-policy-summary/>

Implementation and delivery plan

An SSI has been prepared to add DPHSL to the list of RHBs

- **Post-implementation review**

As indicated above, the Scottish Government has commenced an exercise to review all current RHBs.

Summary and recommendation

The Scottish Government has noted the comments made by Dumfries and Galloway Council in the BRIA process. Following consideration of these comments and the application, the SG considers that the application by DPHSL to be designated as a RHB should be approved and the SSI made. The reason is that the proposed use of Rural Housing Burdens by DPHSL may be of benefit to the Lockerbie area of Dumfries and Galloway.

DPHSL aims to build 25-30 mixed tenure homes of which 7 would be for sale at a discounted rate.

- **Summary costs and benefits table**

The costs of the SSI are negligible.

The benefit is the potential to increase the stock of affordable housing in the local area.

Declaration and publication

I have read the impact assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impacts of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:**Date:****Annabelle Ewing MSP, Minister for Community Safety and Legal Affairs**

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